



AFFILIATED REGIONAL COMMUNICATIONS, LTD.  
HSE SSN Prime Network Prime International PSN-Midwest SportsCom  
Sunshine Network PSN-Upper Midwest PSN-Rocky Mountain

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**Mark R. Boyes**  
Associate General Counsel

February 9, 1993

BY HAND

Ms. Donna R. Searcy  
Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Room 222  
Washington, D. C. 20554

RECEIVED

[FEB 9 1993]

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**RE:** Horizontal and Vertical Ownership Limits, Cross-Ownership  
Limitations and Anti-trafficking Provisions,  
MM Docket No. 92-264

Dear Ms. Searcy:

Enclosed are an original and nine (9) copies of the Comments of  
Affiliated Regional Communications, Ltd. We would appreciate your  
assistance in distributing a personal copy of the Comments to each  
Commissioner.

Thank you for your assistance in this matter.

Very truly yours,

  
Mark R. Boyes

Enclosures

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Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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[FEB - 9 1993]

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

Implementation of Sections 11 and 13 )  
of the Cable Television Consumer )  
Protection and Competition Act of 1992 )

MM Docket No. 92-264

Horizontal and Vertical Ownership )  
Limits, Cross-Ownership Limitations )  
and Anti-Trafficking Provisions )

COMMENTS OF  
AFFILIATED REGIONAL COMMUNICATIONS, LTD.

Affiliated Regional Communications, Ltd. ("ARC") submits these comments in response to the Commission's Notice of Proposed Rule Making and Notice of Inquiry in this proceeding. Consistent with its established policies promoting diversity and local origination of programming, the Commission should not restrict cable involvement in regional program production directly or through channel occupancy limits, both of which would discourage cable investment in or carriage of those services.

ARC's Interest In This Proceeding

ARC provides regional and national sports programming for distribution to cable operators and other multi-channel video programming distributors. ARC has ownership interests in six regional sports programming services which produce programming featuring a variety of sporting events,

including professional and collegiate contests in their respective regions. Together with NBC Cable Holdings and Rainbow Holdings, Inc., ARC has an ownership interest in Prime SportsChannel Networks, which distributes two national satellite sports programming networks, SportsChannel America and Prime Network. These networks serve as "backdrop feeds," providing supplementary programming to affiliated regional services. In addition to the six regional services in which ARC owns an interest, nine other regional sports programming services are programming affiliates of the Prime Network.<sup>1</sup>

Liberty Media Corporation owns a controlling interest in ARC and holds ownership interests in entities which own and operate cable systems. Likewise, several of the regional services affiliated with the Prime Network are partnerships or corporations in which cable operators hold ownership interests. Consequently, regulations which would impede cable involvement in regional programming services -- in the form of direct restrictions on program production or channel occupancy limits inhibiting carriage of affiliated regional programming services -- would seriously and adversely affect ARC's ability

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<sup>1</sup> The six regional sports programming services in which ARC has an ownership interest and the nine other regional services which are programming affiliates of the Prime Network and their respective geographic service areas are listed in Exhibits 1 and 2. The programming on these regional services generally includes professional baseball, basketball and/or hockey, collegiate contests, and a variety of other sporting events.

to provide diverse, locally originated sports programming to consumers.

Direct Or Indirect Restrictions on Cable  
Investment In Regional Programming Services  
Are Contrary To The Public Interest.

The promotion of a "diversity of views and information" available to the public is one of the Congressional policies underlying the Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act"). 1992 Cable Act, §2(b)(1). The Act also is intended to further the "substantial governmental interest" in the local origination of programming. Id. at §2(a)(10). These policies provide the primary justifications offered by Congress for mandatory carriage of local broadcast signals by cable systems pursuant to Sections 4 and 5 of the 1992 Cable Act. See, e.g., Cable Television Consumer Protection Act of 1991, S. Rep. No. 92, 102d Cong., 1st Sess. 58 (1991); Cable Television Consumer Protection and Competition Act of 1992, H.R. Rep. No. 628, 102d Cong., 2d Sess. 63 (1992) (must-carry requirements further "substantial government interest" in "preservation of local service" and promotion of "greater diversity of views available to the public"). However, the same policies would be substantially undermined by structural limits which inhibit, or channel occupancy limits which discourage, cable investment in regional programming services.

The Commission and the courts repeatedly have recognized that program origination by cable operators serves the public interest "by increasing the number of outlets for community self-expression and augmenting the public's choice of programs and types of services." United States v. Midwest Video Corp., 406 U.S. 649, 667-68 (1972). Investment by cable operators in regional sports programming services has increased the diversity of program choices available to consumers and the production of locally originated programming.

The Commission expressly has acknowledged that the development of regional sports programming services has contributed substantially to the overall increase in the diversity of programming services available to consumers. See, e.g., Competition, Rate Deregulation And the Commission's Policies Relating to the Provision of Cable Television Service, 5 FCC Rcd. 4962, 4966 n.8 (1990) (number of cable programming services doubled between 1984 and 1990, with regional sports services being a "primary growth area"). Since 1985, ARC has launched four regional sports programming services and is aware of numerous other new regional sports services. These services have substantially expanded the quantity of live and other sports programming available to consumers.

Likewise, the Commission and the courts have determined that the public interest is served by live coverage of

"outstanding local events [such] as community concerts, civic meetings, local sports events, and other programs of local consumer and social interest." United States v. Midwest Video Corp., 406 U.S. at 668-69, quoting National Broadcasting Co. v. United States, 319 U.S. 190, 203 (1943) (emphasis added). Regional sports programming services clearly promote the public interest by producing substantial quantities of locally produced programming featuring live coverage of sports events involving local professional and collegiate teams. Consequently, "any restriction on cable carriage of sports telecasts should be drafted as narrowly as possible" in order to avoid "unnecessarily restricting the dissemination of sports programming." See Amendment of Part 76 of the Commission's Rules And Regulations Relative to Cable Television Systems And the Carriage of Sports Programs on Cable Television Systems, 56 F.C.C.2d 561, 566 (1975).

Without substantial investment by cable operators, consumers would enjoy neither the increased programming diversity nor the benefits of expanded coverage of local sporting events offered through regional sports programming services. The programming carried on those services is expensive to produce due, among other things, to the high costs involved in: (a) acquiring the rights to televise professional and collegiate sports events; and (b) acquiring and maintaining the equipment and crew needed to provide coverage of multiple

sports events on a given day. For example, the annual rights fees for each regional professional sports package cost millions of dollars.

At the same time, there is no "residual" market for this programming. "Unlike feature films which have continuous audience appeal, sports events have substantial entertainment value only at the time of their occurrence." Regulations Pertaining to the Showing of Sports Events on Over-the-Air Subscription Television or by Cablecasting, 52 F.C.C.2d 1, 57 (1974), on recon., 54 F.C.C.2d 797 (1975), set aside on other grounds sub nom. Home Box Office, Inc. v. F.C.C., 567 F.2d 9 (D.C. Cir. 1977), cert. denied, 434 U.S. 829 (1977). Thus, the high cost of regional sports programming cannot be spread over multiple showings of that programming. Consequently, investment by cable operators and revenue generated through carriage on cable systems have been particularly critical to the success of regional sports programming services.

As a result, regional sports programming services are likely to be significantly and adversely affected by regulations inhibiting cable involvement in regional program production -- whether those regulations restrict such involvement directly or discourage it indirectly through channel occupancy limits. In order to preserve the benefits of increased program diversity and coverage of local sports events provided by regional sports programming services, the Commission should

exempt those services from any regulations adopted pursuant to  
Section 613(f)(1)(B) and (C).

February 9, 1993

Respectfully submitted,

AFFILIATED REGIONAL  
COMMUNICATIONS, LTD.

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**REGIONAL SPORTS PROGRAMMING SERVICES  
IN WHICH ARC HAS AN OWNERSHIP INTEREST**

<u>Network</u>	<u>Region*</u>
Home Sports Entertainment	Arkansas, Louisiana, New Mexico, Oklahoma, and Texas
Home Team Sports**	Maryland, North Carolina, Virginia, and Washington, D.C.
Prime Sports Network -- Rocky Mountain	Colorado, Kansas, Nebraska, New Mexico, South Dakota, and Wyoming
Prime Sports Network -- Midwest	Illinois, Indiana, Missouri, Ohio, and Wisconsin
Prime Sports Network -- Upper Midwest	Iowa, Minnesota, North Dakota, South Dakota, and Wisconsin
Sunshine Network	Florida

\* The regions include all or a portion of the designated states. Consequently, different portions of the same state may be included in multiple regions.

\*\* ARC owns a 33.3 percent limited partnership interest in Home Team Sports. ARC also recently acquired a 33.3 percent general partnership interest in Prism/Philadelphia Sports Channel.

**REGIONAL SPORTS PROGRAMMING SERVICES  
AFFILIATED WITH PRIME NETWORK**

In addition to the six regional services in which ARC has an ownership interest, the following regional sports programming services are affiliated with the Prime Network:

<u>Network</u>	<u>Region*</u>
Empire Sports Network	New York
KBL Sports Network	Maryland, Ohio, Pennsylvania, and West Virginia
Madison Square Garden	Connecticut, New Jersey, and New York
New England Sports Network	Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont
Prime Sports Network -- Intermountain West	Idaho, Montana, Nevada, Utah, and Wyoming
Prime Sports Northwest	Alaska, Idaho, Montana, Oregon, and Washington
Prime Ticket	Arizona, California, Hawaii, and Nevada
Pro Am Sports System	Michigan
SportSouth Network	Alabama, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee

\* The regions include all or a portion of the designated states. Consequently, different portions of the same state may be included in multiple regions.